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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/497,244 02/03/00 JARVORS

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EXAMINER

WM02/0417

Frank J Derosa
Cowan Liebowitz & Latman P C
1133 Avenue of the Americas
New York NY 10036-6799

DALENCOURT, Y

ART UNIT

PAPER NUMBER

2635

DATE MAILED:

04/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/497,244

Applicant(s)
Russell Javors

Examiner
Yves Dalencourt

Group Art Unit
2635



☒ Responsive to communication(s) filed on Feb 3, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 2-9, 11, 12, and 24-36 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 2-9, 11, 12, and 24-36 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

This action is responsive to communication filed on 02/03/2000.

The examiner has acknowledged the amended specification, the amended abstract, the amended claims 2 - 9, and 11, the cancellation of claims 1, 10, and 13 - 23, and the submission of new claims 24 - 36.

Claim Objections

Claim 5 is objected to because of the following informalities: It is suggested to delete “ at
“ (claim 5, line 5) . Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 2 - 9, 11 - 12, and 24 - 36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21 - 28 of U.S. Patent No.

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6,028,533. Although the conflicting claims are not identical, they are not patentably distinct from each other because Claims 2, 24, and 30 of (US Application Number 09/497,244) teaches a toy comprising (claims 21 - 23, and 26, line 1 of US Patent Number 6,028,533); a security alarm device comprising a controller and having an armed state and an unarmed state, the controller being responsive to a signal input to at least one input thereof to cause the security alarm device to selectively assume the armed and unarmed state (claims 21 - 23, and 26, lines 2 - 7 of US Patent Number 6,028,533); a signaling device coupled to the controller and responsive thereto to provide an audio or visual alarm signal (claims 21 - 23, and 26, lines 8 - 9 of US Patent Number 6,028,533); the controller causing the signaling device to provide an alarm signal with a change of state of the security alarm device between its armed state and its unarmed state (claims 21 - 23, and 26, lines 10 - 15 of US Patent Number 6, 028, 533). US Application Number 09/497,244) teaches all the limitations of US Patent Number 6,028,533 but fails to specifically teach at least a sensor coupled to the controller. However, one skilled in the art recognized that even though “ a sensor “ is not claimed, it is obvious that a sensing means has to be provided to sense the received signal as claimed in the US Patent Number 6,028,533 for the purpose of controlling the same end results. Claim 25 of US Application Number 09/497,244 does suggest using a sensor external to the controller coupled to the at least one input of the controller.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 - 9, 11 - 12, and 24 - 33, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drori et al (US 4887064; hereinafter Drori) in view of Hai-Ming Wu (US 4925427; hereinafter Wu).

Regarding claims 2, 7, 9, 11, 24, 26 - 33, and 36 Drori et al teaches a multi-featured security system with self-diagnostic capability which comprises a security alarm device (50, figure 1) comprising a controller (70, figure 1) and having an armed state and an unarmed state (abstract; col. 2, lines 24 - 29; col. 3, lines 20 - 35), the controller being responsive to a signal input to at least one input thereto cause the security alarm device to selectively assume the armed and unarmed states (abstract; col. 2, lines 42 - 51; col. 5, lines 25 - 31; col. 4, lines 20 - 31); a signaling device coupled to the controller and responsive thereto to provide an audio or visual alarm signal (col. 5, lines 53 - 64); the controller causing the signalling device to provide an alarm signal with a change of state of the security alarm device between its armed state and its unarmed state (col. 7, lines 5 - 43).

Drori et al teaches all the limitations, but fails to specifically teach a toy vehicle.

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However, Wu et al teaches in the same field of endeavor, a toy vehicle (title; abstract; col. 1, lines 54 - 55) for the purpose of providing enhanced appeal to children's toys. Claim 30 adds the limitations of a propulsion system (formed by a two-level cam 2) including an electric motor which propels the toy vehicle (11, figure 1) and a motor drive (gears) which selectively supplies power (by way of battery not shown) to the motor , the controller being coupled to the motor drive and causing the motor drive to selectively supply or not supply power to the electric motor when the security alarm device is in its unarmed state and to not supply power to the electric motor when the security alarm device is in its armed state (11; abstract at lines 3 - 5; note col. 1, lines 56/57; and col. 3, lines 23 - 32).

Thus, it would have been obvious to one of ordinary skilled in the art at the time the invention was made to have used a toy vehicle in Drori et al's device as evidenced by Wu because Drori et al suggests a multi-featured security alarm system in a real vehicle and Wu teaches a security alarm system in a toy vehicle for the purpose of providing enhanced appeal to children's toys.

Regarding claim 3, Drori et al and Wu teach all the limitations on claim 2, and Drori et al further teaches a signaling device which comprises an audio device coupled to the controller which projects sound as an audio alarm signal (col. 3, lines 44 - 59).

Regarding claim 4, Drori et al and Wu teach all the limitations on claim 2, and Drori et al further teaches a signaling device which comprises a visual device coupled to the controller which projects light as a visual alarm signal (col. 3, lines 44 - 61; col. 11, lines 48 - 65).

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Regarding claim 5, Drori et al and Wu teach all the limitations on claim 2, and Wu further teaches a toy wherein the toy comprises a toy vehicle and a propulsion system (formed by a two-level cam 2) including an electric motor which propels the toy vehicle (11, figure 1) and a motor drive (gears) which selectively supplies power (by way of battery not shown) to the motor , the controller being coupled to the motor drive and selectively supplying drive signals thereto at least in response to a signal at one input of the controller (11; abstract at lines 3 - 5; note col. 1, lines 56/57; and col. 3, lines 23 - 32).

Regarding claim 6, Drori et al and Wu teach all the limitations on claim 2, and Drori et al further teaches a remote control device coupled to the controller, the controller being operative to cause the alarm device to assume its armed and unarmed states in response to the remote control device (col. 2, lines 43 - 52).

Regarding claim 8, the examiner takes official notice that a remote control that includes an infrared transmitter and the receiver includes an infrared receiver is well known in the art.

Regarding claim 25, Drori et al and Wu teach all the limitations on claim 2, and Drori et al further teaches a sensor external to the controller coupled to at least one input of the controller , the controller selectively activating the alarm responsive to the sensor (75, figure 1; col. 7, lines 5 - 44).

Regarding claims 34 - 35, Drori et al and Wu teach all the limitations on claim 2, and Drori et al further teaches a first manually actuatable control in response to actuation of which the controller causes the motor drive to supply power to the monitor in the unarmed state of the

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security alarm device; and a remote control device coupled to the controller and including the first control and a second manually actuable control in response to actuation of which the controller causes the alarm device to change between its armed and unarmed states (col. 7, lines 47 - 68).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

John P. McNett (US 4,598,976) discloses a simulated rotating light for children's vehicles and the like.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (703) 308-8547. The examiner can normally be reached on Monday through Thursday from 7:30AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached on (703) 305-4704. The fax phone number for this Group is (703) 305-3988.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Yves Dalencourt


April 10, 2001


BRIAN ZIMMERMAN
PRIMARY EXAMINER